

REDUCING YOUTH ACCESS TO TOBACCO
The Nevada Experience
Testimony of Nevada Attorney General Frankie Sue Del Papa
House Committee on Commerce
Subcommittee on Health and Environment
March 18, 1997

As a condition of receiving approximately \$6.4 million in Federal assistance for substance abuse prevention and treatment, Nevada must enforce its State law which prohibits the sale of tobacco to children under 18 years of age in a reasonable manner including random, unannounced inspections of retail businesses. In 1995, the Nevada Attorney General's office was assigned this task by the Nevada Legislature which budgeted a total of \$60,000 annually to complete this assignment.

Prior to 1995, tobacco and tobacco products were easily obtained by children in Nevada. A 1993 study by the American Cancer Society of retail locations in the Las Vegas area found that children under 18 years of age could purchase tobacco over the counter 61% of the time. A 1994 survey determined that statewide, children could successfully buy tobacco during 64% of their attempts. Further, the Nevada Bureau of Alcohol and Drug Abuse surveyed courts in Nevada and found that in recent history no one had been charged with selling tobacco to children. This law was being ignored.

To change this, my office began activities of retail education and information as well as the required random, unannounced inspections. The purpose of retail education was to be fair to owners, managers, and sales staff who would be the focus of any enforcement. More important, the actual goal of the Synar Amendment was to reduce sales of tobacco to under age youth. Widespread retailer information was likely to result in increased checks of age-identification of all children attempting to buy tobacco and reduced sales to youth under 18.

Retail Education and information

On September 8, 1995, a letter was sent to all (over 2800) tobacco retailers in areas where under age youth were likely to buy tobacco, notifying them that inspections were to begin soon. Postage for the mailing was paid by the Retail Association of Nevada. The Attorney General's Office held a press conference at a local high school with representatives of the Retail Association of Nevada and the State Superintendent of Schools announcing the letter was sent and that inspections would begin soon. Local television stations attended and broadcasts of this letter were made across the state. In addition, draft articles were sent to associations of retailers (e.g. chambers of commerce) announcing inspections would begin soon and asking their member stores not to sell tobacco to children.

At the end of September, 1995, the first set of inspections or "stings" were conducted. The Las Vegas Metro Police filed charges in 64 % of inspected businesses. Simply telling retailers about enforcement was not resulting in changes. My office encouraged media coverage of these and other enforcement inspections to maximize the message to everyone involved in the sale of tobacco.

Later in the year, the Coalition for Responsible Tobacco Retailing asked me for a cover letter to accompany a "We Card" kit which was mailed to every Nevada tobacco retailer. The kit included audio and video tape training programs for sales staff, store signs, and daily tear-off calendars to help compute the ages of young people presenting age identification. I announced the mailing of these kits at a statewide press conference to draw attention to the problem and remind retailers to train their staff.

In conjunction with this, the Nevada Petroleum Marketers Association and the Retail Association of Nevada sponsored workshops across the state to teach retailers how to use the kits

to train staff. A representative of the Attorney General's office spoke at every presentation. Media coverage of these workshops was encouraged to once again remind retailers about this problem. Also, individual letters were sent to corporations with large numbers of franchise stores within Nevada recommending that in-house sales staff education programs include age identification training.

Vending machines are a source of tobacco for children and Nevada does not have restrictions on their locations. Nevertheless, in December, 1995, I sent a letter to the 400 owners of tobacco vending machine licenses in Nevada. The letter asked the owners of these machines to consider moving the machines to adults only locations and, within those locations, farther than twenty five feet from any entrance. In addition, the Attorney General's Office asked that if this were not possible, that the vending machines be moved to a location where an adult could observe the machine at all times. In June, 1996, I sent a similar letter to every business where a vending machine may be located, for example restaurants and taverns, along with a copy to each vending machine licensee renewing this request. Public health agencies were asked to assist in following up on this when conducting their inspections of taverns and restaurants and were given another letter from the Attorney General's office asking that vending machines be moved to adults only locations.

Finally, in May and June, 1996, my office paid for the production of two radio and two television public service announcements directed to owners, managers, and sales staff of businesses which sell tobacco. These ads summarized the enforcement activities and reminded them to not sell tobacco to children. Nevada radio and television broadcast these ads for a total air time valued at about \$126,000. The Attorney General's office paid a total of \$10,000 for this project under a contract with the Nevada State Broadcasters Association for public service

announcements.

All of these activities contribute to the reduction of the sale of tobacco to children. Along with these, actual enforcement of the law is necessary.

Random, Unannounced Inspections

The Attorney General's office conducted enforcement inspections by contracting with local law enforcement agencies which would pay officers overtime, and with private contractors in those jurisdictions where no law enforcement agreement was possible. Each time the Attorney General's office signed a contract, a press release was issued announcing that inspections would begin soon. The Attorney General's office coordinated press coverage of inspections. For example, after a local law enforcement agency conducted a set of stings, a press release was issued summarizing the results. In addition, television media some times accompanied law enforcement on inspections later broadcasting how inspections were conducted.

After every inspection, whether or not a violation occurs, State law requires that a written report be sent to every inspected retailer. This report informs the manager or owner of the date, time, and inspection result. After this letter is sent and upon the request of franchise corporations the Attorney General's office will inform them of the results of inspections of their stores. This provides larger corporations to offer additional training to these locations or take any other steps they believe are appropriate.

A total of 2,761 inspections were conducted during the period of September, 1995, through July, 1996, which revealed 846 violations of the law. Charges were not always filed and that decision was left to the discretion of local law enforcement officials. When charges were filed, they resulted in fines ranging from \$65 to \$335.

I am very proud of the these results. The sale rate to children during all of these

inspections is 31% for the 10 months my office was responsible for this activity. During the period from September, 1996, to the present, the youth buy rate is 20 %. In reviewing these results, please keep in mind that because Nevada's legislature meets every other year, it is one of seven States not required to conduct a scientific random study until the current federal fiscal year and that will be conducted this summer. Nevertheless, I believe that we have surveyed, at least once, every retail location which sells tobacco in Nevada. The results indicate that Nevada has reduced the availability of tobacco to children.

In 1995, the Legislature assigned the responsibility of conducting inspections of retail tobacco locations to the Attorney General's office. My office has used the \$60,000 budgeted in the most effective manner possible. I will continue to encourage compliance with the law and enforce the law when necessary. My office stands committed to work with anyone, public or private, who can protect the health of Nevada's children by helping them delay the decision to use tobacco until they reach the age of 18.

Anticipated Questions

- 1 [The hearing is not on the FDA regulations but someone may ask] What is your opinion of the FDA regulations?

The FDA regulations currently prohibit the sale of tobacco to anyone under 18 and require age identification of people under 26 to be checked. Regulations which will take effect in the future will limit advertising and vending machines. I supported the regulations as a whole because I believe they will assist my enforcement effort. In addition, my office is currently working with the FDA and the Nevada Legislature to be the state agency which would conduct FDA inspections. The primary purpose of seeking this authority is to assure to maximum extent possible that State and Federal inspections are conducted in a uniform manner and done under one written agreement with every law enforcement interested in conducting them.

2. If charges are not always filed, how are you assured the law is being enforced?

As in any situation where the law is violated, law enforcement officials have the discretion to file charges considering all of the facts and circumstances. My office encourages the law enforcement agencies to exercise that discretion responsibly and charge the clerk, store owner, or manager, whoever is appropriate.

Acronyms/Terms that may be mentioned

SAMHSA = Substance Abuse Mental Health Services Administration. It is part of Health and Human Services. C-SAP and C-SAT (see below) are agencies within SAMHSA.

C-SAP= Center for Substance Abuse Prevention.

C-SAT= Center for Substance Abuse Treatment.

SAPT = Substance Abuse Prevention and Treatment Block Grant. This is title of the money given by SAMHSA to the State alcohol and other drug agencies. In Nevada, the State agency is the Bureau of Alcohol and Drug Abuse ("BADA").

Synar Amendment = This is the common name given to Section 1926 of Public Law 102-321. The Synar Amendment is what established the tobacco enforcement requirements upon the States.

KEYNOTE ADDRESS TO NATIONAL ASSOCIATION OF CONVENIENCE STORES
October 20, 1996

- I. Welcome
- II. Introduction
 - A. 1992 Congress passed "Synar Amendment" requiring States to do 3 things to receive their Substance Abuse grants:
 - 1. Have law prohibiting the sale of tobacco to children under 18;
 - 2. Enforce that law; and
 - 3. Conduct random unannounced inspections of retail tobacco outlets.
 - B. Nevada could lose up to 40 % of its Substance Abuse grant if did not;
 - 1. According to Nevada Bureau of Alcohol and Drug Abuse, that would be a total of \$ 2.2 million annually;
 - C. In 1995, Nevada Legislature assigned inspections to Attorney General.
- III. NV. Attorney General immediately began cooperating with retail industry to achieve compliance
 - A. Within 2 weeks prepared a draft time line of all planned activities and distributed to retail industry for suggestions
 - B. Letter to 2800 tobacco retailers notifying them enforcement to begin and of the penalties;
 - 1. Postage for mailing paid by retail industry
 - 2. Articles in Chamber of Commerce and retail association newsletters were distributed to provide additional notice
 - 3. Joint press conference with retail organizations announcing enforcement would soon begin.
 - 4. Two separate letters to those involved in vending machine sales
 - a. Dec., 1995 -- 400 tobacco licensees
 - b. June, 1996 -- 3,000 restaurants, bars, casinos, and vending licensees
 - C. Participated in retailer meetings and training sessions
 - 1. Distributed 2400 "We Card" training kits including audio and video tape training programs on how to check for age identification, in-store signs, and calendars;
 - 2. Attended numerous training sessions sponsored by Nevada Petroleum Marketers to train owners, managers, and sales staff how to use the "We Card" materials.
 - D. Extensive press releases and press conferences informing the public and reinforcing message to tobacco retailers;
 - 1. 28 press releases in first year of activity or more than one every two weeks.
 - E. Paid for production of a public service announcement which ran for two months on TV and radio.
 - 1. Directed at sales staff, owners, and managers reminding them to please "card" people appearing to be young when they asked to buy tobacco and warn them that inspections were being conducted.

2. For \$ 10,000 cost received \$126,000 worth of TV and radio air time.
- F. FUTURE PLANNED ACTIVITIES:
1. Soon will be announcing winner of a poster contest among high school students presenting a message from me to under age youth to discourage them from smoking
 - a. Winning poster will be printed by the Glen Hare Occupational Center (Reno) at their cost;
 - b. Distributed to all schools by the County Superintendents
 2. Survey of the knowledge that sales staff have of Nevada State law:
 - a. Survey form with limited number (e.g. 10) questions on Nevada law prohibiting the sale of tobacco to under age youth.
 - b. Multiple copies of the form will be distributed to over the counter tobacco retail locations.
 - c. Sales staff will be eligible to complete and return form
 - d. Those answering most of the questions correctly will be eligible for raffle prizes.
 - e. Result: One measure of the effectiveness of all education and information programs conducted with retail industry.
 3. Joint activity with Nevada Junior Chamber of Commerce ("Jay Cees")
 - a. A member of Jay Cees will personally visit every over the counter tobacco retailer in Nevada who has refused to sell tobacco to under age youth to thank the retailer and encourage retailer to continue to refuse to sell tobacco to children.
 - b. Retail store owners deserve the appreciation of everyone in Nevada and this "person-to-person" campaign will demonstrate our thanks.
 - (1) NOTE TO FSDP: Jay Cees have not started this yet because State officer in charge of it was affected by the Reno flood.

IV. Inspections

- A. Who with
1. Contracted with local law enforcement agencies to conduct the inspections;
 2. In jurisdictions where did not have agreement recently hired a private contractor.
 - a. Currently are reviewing responses to requests for proposals for this fiscal year.
- B. Youths under 18
1. Who looked to be under 18 to adults --"Age test"
 2. Obtained parental permission
 3. Took picture of youth
 - a. These pictures may be inspected by store owners/managers if a charge has been made.
 - b. If clerk says under age youth looked older, owner/manager may see picture of youth to check and decide on own what age the young person appeared to be.
 4. Could not alter the appearance of youth

- C. Youth would enter retail outlet and try to buy tobacco
 - 1. If asked age, had to tell true age
 - 2. Could not present false age identification
 - 3. If sold, clerk or business could be cited for violation
 - D. After inspection, written report of result given to business management
- V. Effectiveness
- A. Common measure is "youth buy rate" -- that is number of inspections youth could buy tobacco and divide by number of inspections;
 - B. Prior studies
 - 1. 1993--American Cancer Society of Las Vegas --found a youth buy rate of 61 %
 - 2. 1994--Bureau of Alcohol and Drug Abuse (BADA) study-- found a youth buy rate of 64 % across Nevada with rates varying from 24 % to 78 % across state depending on community
 - 3. Sept., 1995, in Las Vegas, our first set of "stings" resulted in a 64 % buy rate despite extensive public information and education.
 - C. Overall results
 - 1. Total 2761 inspections from September, 1995 through June, 1996
 - a. Over-the-counter buy rate is now at 21 %
 - b. Although all of you are in over-the counter sales, you may be interested that the vending machine buy rate is 54 %
 - c. Overall rate (combining over the counter and vending) is 31 %
 - 2. On the last day the private contractor conducted inspections, he inspected 86 over the counter outlets. At only 3 stores was the under age youth able to buy tobacco
 - D. For the current fiscal year, Attorney General's office has signed seven new agreements with local law enforcement agencies to conduct inspections.
 - 1. For the current fiscal year the buy rate is about 20 %
- VI. Conclusion
- A. AG's office completed law enforcement activity
 - 1. Thousands of inspections using children under the supervision on an adult attempted to buy tobacco;
 - a. Reduced from buy rate in one year from 63 % to 31 %
 - 2. Current year is demonstrating about a 20 % youth buy rate
 - 3. Goal is to reduce further to less than 20 % required by the Federal government in seven years